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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,394	04/19/2004	Jay Duncan Stewart	ACE-20269	9930
10361	7590	12/15/2005	EXAMINER	
ANTONY C. EDWARDS SUITE 200 - 270 HIGHWAY 33 WEST KELOWNA, BC V1X 1X7 CANADA			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,394

Applicant(s)

STEWART ET AL.

Examiner

Anabel M. Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13, 15 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 10-12, 14, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9,13,15,18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Marn (3,292,287) and further in view of Saotome (5,010,461) and further in view of Baliozan (4,649,463).

With regards to the recitation "adapted to internally reflect" The applicant is advised that it has been held by the courts that the recitation that an element is "adapted to" perform a function or serve in a given application is not a positive limitation, but only requires the ability to so perform. *In re Hutchinson*, 69 USPQ 138. In this case the shelf of Marn is made of a transparent material, thus adaptable for performing the function of internally reflecting.

3. Marin discloses the claimed invention except for the recitation of a conical bore in the upper surface of the shelf and the light transmissive housing have light diffusing edges. Marin discloses a shelf mounted on the base the shelf of light transmissive material adapted to internally reflect said shelf containing, a light source mounted in said base under said shelf, said light source directing light upwardly so as to impinge said shelf, said light thereby reflected radially upwardly from the along and within said shelf, said shelf having at least one perimeter edge angled at a reflective angle so as to

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reflect the light traveling along and within said shelf upwardly from said at least one perimeter edge (since shelf is transparent, and sidewalls opaque, inherently the edge forms an angle that reflects light traveling along and within the shelf upwardly from the at least one perimeter edge), a light transmissive housing mounted on said shelf (13), said housing having light transmissive walls of light transmissive material adapted to internally reflect light and at least one lower edge of said walls shaped for conformal mating onto said at least one perimeter edge (fig 2) to thereby allow transmission of the light reflected upwardly from said at least one perimeter edge into and along a light path within said walls of said housing. Saotome discloses a light-transmitting shelf (15,17) that has a bore (46), a light source with a conical reflector behind it radiating light towards and through the bore from a generally 45 degree. Baliozan discloses a light device with a light transmissive housing on top of a base (A, 14,1), the light transmissive housing light reflective said walls of said housing having light diffusing edges in, and interrupting, the light path so as to diffuse light outwardly of said housing only along said light diffusing edges to thereby define a lit shape as seen by a user substantially transparently supported by said housing. (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Marin to include the teaching of Saotome's conical reflector and light source emitting light through a circular bore since although Saotome does not teach the bore in the shelf being conical, the light emission that can be seen in figure 1 appears to emit light in a 45 degree angle from a center position from the light source towards an object to be illuminated so as to illuminate the object in a controlled manner. It would have been

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obvious to one of ordinary skill in the art to further modify the light transmissive housing of Marn in view of Sotome to include the teaching of Baliozoan's diffusive light transmissive housing since modifying the surface of Marn's light transmissive housing to make it diffusive would be purposeful for providing the light transmissive housing with an evenly distributed light emission throughout the light transmissive housing which is a desirable feature in decorative light emitting structures.

- The housing of Marn is a pyramid shape;
- The pyramid of Marn is a right angle pyramid
- The base of Baliozian is a frusto-pyramidal shape;
- Marn discloses the shelf as being a transparent plastic, with regards to the shelf of Marn being made specifically of acrylic, it would have been obvious to do so since acrylic is old and well known in the illumination art for its transparent and light transmissive properties low cost.
- With regards to the reflective angle being substantially 26 degrees from the vertical, it would have been obvious to make the reflective angle of Marn substantially 26 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only ordinary skill in the art. *In re Aller*, 105 USPQ 233.
- The base also includes walls made of light transmissive material (col. 2 lines 37-41, Marn)

- With regards to the walls of base being mirrored, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Marn to include a mirrored coating on the walls of the base since such a modification to increase reflectivity of a desired area is old and well known in the illumination art.
- With regards to the light source being an LED, The examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of Marn or Saotome or Baliozian. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.
- The walls include planar sheets (fig 2, Marn);
- The shelf is planar (21, Marn; 15,17 Saotome)
- The shelf is adapted to support over the bore an artifact to be highlighted by being lit from beneath ((19, Saotome)
- The bore is positioned substantially in the center of the shelf (Saotome)
- Marn includes jewelry as an item to be displayed and illuminated on top of shelf 21).

Allowable Subject Matter

4. Claims 10,11,12,14,16,17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach the gaps in the diffusing edges of the device, the mounting position of the light directing window or a light transmissive lip formed around the ate last one perimeter edge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

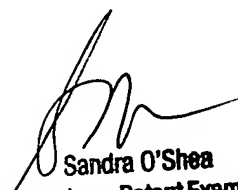
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Examiner
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AMT



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800